

①

Federal District Court
Southern District of New York
HERMAN CRESSO
Plaintiff

2nd Amended
Complaint

All the Defendants in
First Complaint,

16 Civ 0708

Defendants
(~~for~~ Team) District Attorney's
Office Assigned to Docket #
and Subsequent 1562/r indictment
that work on case from initial
accusatory instrument; District
Attorney & Assistants District Attorney's

Defendants
The Commanding Officers
in Charge Proper Training of
Detives 10 Precinct Warrant Squad,
Defendant

Reinstatement of onservice
Detective Det. McHair
10 Precinct Warrant Squad,
Defendant

Cyress Vance
District Attorney
State of New York
Defendant.

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
DOCKET
12-7-18

1 of

COMPLAINT:

This is a complaint against
the foregoing Defendants,

The Complaint against the District
Attorney Supervisor, prior to choosing to
indict the Supervisor Schoonvel case
and adhere with fellow (A.D.A.) Assistant
District Attorney to omission of evidence
that were enough to dismiss the Complaint in
its entirety for there wouldn't be enough
probable cause to arrest. In doing so
they knew that plaintiff had a history
of pleading guilty - prior to trial on
"cop-out", deal presented by District
Attorney's or Judge's; This lead
the A.D.A. Supervisor, that evidence

(2)
With held would secure that plaintiff
may plea guilty if he was to be
held incarcerated for long period of
time and would eventually lead to
plea of Guilty.

The first A.D. A.S. knew that
he could not try case so he
submitted to another District Attorney
without omitted evidence, in hopes that
someone else would take case - The
Second team was aware that there
had been evidence omitted however, not
as to what was the evidence, however,
they withheld some of the Rosario/Brady
material and perhaps let it be known
that some of the Brady/Rosario material
would be handed to Judge and or Court Clerk

this Brady/Rosario Material was ⁽³⁾
 Never given to Judge for issuance of
 arrest warrant and omitted to Grand
 Jury for it was suffice to prove that
 plaintiff wasn't the individual that committed
 the allege crime of Burglary in 2nd degree
 The first A.D.A.S, and A.D.A. and
 the Municipality were made liable
 by their falsification of evidence in
 withholding crucial evidence - and violation
 of Federal, state, United States Constitutional
 Rights of plaintiff Herman Ceepo
 The Second Team of District Attorney
 are guilty for not curing act of first
 D.A. office in dismissing complaint
 And moving on with complaint
 either because they were not

Properly train and/or Supervised ⁽⁴⁾
in manner to violate our rights
of Federal, State, United States
Civil Rights, Human Rights, To
Directly and Deliberately hold someone
who is innocent of crime and deny
that citizen of his inalienable right
to be free from unconstitutional, Human
Rights to be free from illegal acts
by violation of A.D.A office District
Attorney Supervisors and/or assistants
to commit illegal acts to insure
a legal act of obtaining a conviction
thus violating the sworn oath of
office bestowed upon them by their
respective oath of office. Thus, All
District Attorney's, Supervisors and Assistant

District Attorney's Are guilty ⁽⁵⁾
 for not training or supervising
 the District Attorney Personell whom
 worked initially on pre indictment case
 1562/11 AND Seeking to Team # 2
 District Attorney's whom worked
 on testifying Marshalling evidence to
 obtain indictment, and directly deliberately
 withheld evidence that prolong his
 stay in Jail, and continued to
 prosecute Plaintiff on less than
 probable cause - Conspiring to obtain
 Kuew DNA under fake grounds
 that it would hold plaintiff in
 Jail when that DNA evidence was
 suffice to prove his innocence. This
 first DNA was suffice to prove more

his innocence than his guilt if ⁽¹⁾
 was to say least equivocal but more
 favorable to plaintiff as play A.D.A.
 choose to obtain known testing
 of DNA that D.A. office could
 control,

The Supervisors of A.D.A.
 are all guilty for not monitoring and
 for supervising the actions of their
 subordinates in charge of the team.

that was in charge of both 1 and
 2 on indictment 1562/11 and prior
 for their lack of training or
 their direct and deliberate acts in
 not to violate Federal State United
 States, Civil Rights, Human Right
 Constitutional Federally enacted LAWS

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that are secured to all Citizens
of these United States and the
Republic for which it stands our
NATION under God!

The Supervisor is guilty for
improperly training and Supervising
and admonishing the lack of
impropriety by their subornants with
knowledge of their malicious abuse
of process and abusive actions in
attempting to justify a wrong
by attempting to gain a conviction
on false testimony omission of
evidence Rosario/Brady material or
any material that proves the Citizen
his Constitutional Rights

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The District Attorneys Actions of seeking 2nd DNA, of which was unnecessary proves the Acts by D.A., O. to be a ploy to seek, or in hopes of delays to hold plaintiff in jail knowing that first DNA proves him not guilty of charges

The Acts of District Attorney's undermine the very spirit of Justice to MAKE them the ones whom should be incarcerated for their action and inactions in not living to the Sworn oath taken.

All District Attorney's and their Superiors are liable while making decisions of which violate purely establish LAW, Federal, State City and United State Constitutions along with human, Civil Rights

The Acts of testifying to Judges by omittance of evidence should not be condoned especially when it leads to unjustified incarceration and denial of all the Civil Rights Constitutional Rights that are slowly being diminished.

(9)

The District Attorney's Office is given to many Rights to Withhold meaningful representation to Secure A fair Trial

By allowing A.D.A. to Marshall evidence of police officers Detectives gives them card blank to violate our Secret Laws of this Great Nation.

The Allowance of A.D.A. to disregard the Laws of the State And City makes Judges Very Very Angry to adhere to there duty.

The A.D.A. Marshall the evidence use to adhere to obtaining a conviction everything is more on their side and they constantly continue to hold defendants in Jail as ploy to achieve their goals to obtain Cop-out, This should not be condone,

The Officers/Detectives Testify to get A conviction and A.D.A. official condone this action for its advantages for both parties. This should not Transpire,

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The third action by the Prosecution District Attorneys office is to deprive the rights of all Brady/Rosario Material Way before the inception of Trial - and should let the Judges and or Grand Jury know of their action - and/or not be allowed to continue to trial before they allow their Superior's know of their Actions

Any Know A.D.A, or Superior District Attorney should be dismissed for violation of any defendant before Trial or arraignment,

The District Attorney's Office
Should be monitored by Federal
officers and others to secure
Peoples, Citizens Rights Are not
being violated.

The District Attorney Should
be overseen for holding one
in jail as ploy to obtain
a plea bargain favorable to a
conviction for them
important

Background Material

The plaintiff on more than
one occasion has plea guilty
because, ploys use by District
Attorney's office, by delaying
Trial Date false unreadiness,
obtaining evidence for case
and DNA postponements etc,

Just to secure that plaintiff
takes a plea or to get a
conviction the plaintiff
has plea guilty in past the
District Attorney's office was aware
of this

In 2006 to 7 the plaintiff plea
guilty to D Felony where he stepped
out of jail without need to go
upstate after serving 10 months at Rikers Island
9 months not guilty merely to get out jail.

(2)

A, Please Take Notice, that this is a 2nd Amend complaint against the defendants that this District Court Judge, Paul G Gundophe, has choose to move to Dismiss the complaint of the plaintiff allegedly because they are time bar and because all the defendants have absolute immunity and or/qualified immunity from being sue and because the plaintiff's State claims the court refuses to adhere to entertain for they believe that since the Judge has dismissed all the Plaintiffs claim against the Plaintiff the Court doesn't wish to make the state claims.

B. The Plaintiff perceives to believe upon being knowledgeable of the proceedings had before this Court and that the decision of the Court is premature for all the defendants for the reasons set forth below:

C. The Plaintiff firmly believes that upon information and belief that he has a viable claim against all the defendants and that without further discovery this case should not be decide and/or dismiss.

1. The Plaintiff States that Although the plaintiff has stated a viable claim against the Defendants stated in his original complaint and upon this Courts decision to allow the plaintiff the right to address the Court and attach this Amended Complaint to his already submit first Amended Complaint as stated on the Courts' Order rendered September 28th, 2018 and Ordered the Pro Se Clerk to send this Order by Certified Mail. However, the plaintiff received it late because it was sent by Regular Mail. on or about October 9th or 10th.

by Plaintiff, thus the Plaintiff went directly to the pro-se office to request time to make an amended complaint - thus the Plaintiff would need additional time to do so.

E. The Plaintiff wishes this Court would take an intermeddly look at this amended complaint with the scrutiny the Plaintiff believes to be a viable claim as to asserted in the forgoing matter.

(b)

The District Attorney's office
As well as officers and/or Detectives
Are Sworn Officials for the
City and State to Secure that
they uphold State and United State
Constitution along with the Federal
Laws that they are bound to
Secure and uphold the Constitution
of the United States,

In the process of seeking
an indictment against the
plaintiff the office of the
District Attorney knew that one
of their co worker's and Assistant
District Attorney withheld evidence
that would had prove the plaintiff's
innocent and use some evidence
that states with particularity

that the plaintiff was not ⁽⁷⁾
the one that had committed
the crime, also Based on the
forementioned and ongoing the plaintiff
respectfully states that this
dereliction of Duty by the
District Attorney's office
the District Attorney's office
have violated the State and
United States along with the
Federal Laws that are binding
to these laws and the violation
of the District Attorney was
direct and deliberate that it
violated the Plaintiff 145
6, 8 10 11 14 Constitutional Rights
to 1) be free from unlawful intrusion
in his person, his home, and to

gm

Enjoy his freedom in the pursuit
 of happiness also to cause violation
 and a prolonged unnecessary time
 in incarcerated before and after
 they became knowledgeable that
 the evidence had been withheld
 by A.D.A.'s Aosario / Brady Material and also
 by the uses of alleged challenge
 DNA admittance into evidence
 challenge by the Plaintiff - and
 the plaintiff took exception
 to the Admittance of the
 use of DNA. - Despite
 the fact that some of
 the first DNA proved that
 the DNA held or had on
 the destroyed Crowbar
 which the Defendant's choose
 to use as evidence, had
 evidence that the plaintiff

LOOK!

See Trial
 Transcripts

Was Not the one that (9)
 Committed the Crime, the Counter
 And All the evidence was not
 tested for Blood, the DNA
 on the Destroyed Alleged use
 crowbar was that of a
 Female not a male and
 definitely not the plaintiff.
 See Respectfully Minutes of
 The Trial by the Medical
 Examiner, and the Police
 Forensic Department, A, B, C, 3 Documents
 E, the Minutes of the transcript
 of trial where it state that
 A Females DNA was found on
 Crowbar exhibit E P, 89—
 and, the Document where the
 Presiding Judge Stated on
 Record that he knew that
 The plaintiff was not the

(10)

" To Service a Motion to Dismiss
 A Complaint must contain sufficient
 factual matter, accepted as true, to
 state a claim to relief that is plausible
 on its face" Ashcroft v. Iqbal 556
 U.S. 662, 678 (2009) (quoting Bell Atl. Corp. v.
TWombly, 550 U.S. 544, 570 (2007))

In considering a Motion to Dismiss...
 The Court is to accept as true all
 facts alleged in the Complaint. Kassler vs.
2nd Ave. Delicatessen Inc. 496 F.3d 229,
 237 (2nd Cir 2007) citing Dougherty v Town
of N. Hempstead of Zoning Appeals, 282 F.3d
 83, 87 (2d Cir 2002) and must "draw all
 reasonable inferences in favor of the
 Plaintiff." Id. citing Fernandez v. Chertoff, 471
 F.3d 45, 51 (2d Cir. 2006) This Court Choose
 to go on that the strongest points
 should be considered Hill v Curcione
 657 F.3d 116, 122 (2d Cir 2011) Ceniz v Gomez

202. F.3d 593 597 (2000) ^{2d Cir.} along with
 Wilder v. United States Dept of
 Veterans Affairs 175, F. Supp. 3d, 82, 87
 (S.D.N.Y. 2016) Nor will the Court
 consider it stated Conclusion of
 Law or deductions of fact Whitfield
 v. O'Connell 9 Civ 1925 (WATP) 2010
 WL 101060. A *4 S.D.N.Y. Mar. 2010
 Quoting First Nationwide Bank v. Belt
 Funding Corp. 27 F3d 763, 771 (2d Cir
 1994) See ^{1st Cir.} Harris v. Mills 572 F.3d 72, 73
 (2d Cir. 2009) ... (1) hereafter recitals
 of the elements a cause of action
 supported by mere conclusory statements
 do not suffice to establish entitlement to relief
 ("quoting Iqbal 556 U.S. at 662.")

In Considering A Motion to dismiss for
 failure to state a claim Pursuant to Rule
 12(b)(6) A district may consider the
 Facts alleged in the complaint, documents
 attached to the complaint as exhibits, and

(12)

documents attached to the Complaint, documents incorporated by reference in the Complaint
Disfalso v. MSNBC Cable LLC, 622 F.3d 104, 111 (2d Cir. 2010) (citing *Hambers v. Time Warner Inc.*, 282 F.3d 147, 153 (2d Cir. 2002); *Hydrex City of Nassau*, 180 F.3d 4254 (2d Cir. 1999))
 "Where a document is not incorporated by reference, the Court may nevertheless consider it where the Complaint" Id. quoting *Mangini Fico v. Blumenthal*, 471 F.3d 391, 398 (2d Cir. 2006)
 Moreover, allegations made in pro-se plaintiff's Memorandum of Law . . . are consistent with those in Complaint, they also may be considered in motion to dismiss." *Braxton v. Nichols*, 8 Civ. 3568 P.66, WL 1010201 at *1 (S.D.N.Y. Mar. 18, 2010) (citations omitted) see also *Bugness v. Goord*, 98 Civ. 2047 (SAS) 1999 WL 34438, at *1 n.1 (Saw 26 1999) (same)

Realistically in the rational submitted by the Courts ruling on the Complaint in accordance for Whit, Perry and Cabristan in their official capacities or otherwise the Complaint was not view in fact as

To The Facts that these were A.D.A.,
in reference to the Second District
Attorneys that were able to adhere
to the indictment of 1562/11 for
the initial D.A. Supervisor knew that
the evidence omitted being Brady/Rosario
material was suffice enough to prove
the plaintiff's innocence to the sole
charge on the indictment so the
Supervisor whom withheld the evidence
could not have had his team try the case.
These Assistant's Later received the
case but in viewing the manner in which
they conspire to also conspire to testify
that they too withheld evidence of
Brady/Rosario material that although
more evidence is withheld the evidence

that they withheld of which some was given toward the end at least to the Court that it was self evident that Pages 291 to 295 - Stipulate that Judge knew that the then Defendant now plaintiff was not the individual that broke into the establishment for the evidence proved that the DNA that was found on the alleged instrument the Bloody crow bar. had enough evidence to state that it was X DNA meaning a Females DNA was on the crowbar not enough to state that who it was but enough to stipulate that it was a Female; also note that it was never ever tested for

(14)

blood - therefore ; these facts show that this Court had the opportunity to secure that there had been not one conspiracy but two from the Supervisor District Attorney who first received case and choose not to handle it that would be the first District Attorney's that handle the docket to secure that another District Attorney Team handle it for they withheld/ and/or omitted evidence still believe to be in their possession (Prosecution Possession.)

That is why this Court should secure that they obtain this information for it this Discovery Material

is sort it would prove the true intentions of the Plaintiff's truth to the matters set forth in his complaint not in so many ways but since the this case is so hard that its easy if investigated that in essence the District Attorney's Office, Supervisors, and/or Assistant District Attorney's (Newson D.A.D., D.A. Supervisors ~~D.A.~~ respectfully) Are all liable for their actions or inactions - The former to Act in manner as to their sworn oath to uphold the office they were sworn to uphold the oath of his office, protect the integrity of their office, not disgrace the sworn oath because that is one of the smaller yet larger than life actions done by District Attorney Office

NOT to mention the obstruction of justice in withholding evidence that would have proved the plaintiffs innocence and the need for violation of the plaintiffs Federal, State, United States Constitutional Rights to be free from Malicious Prosecution, Abuse of Process, Cruel and unusual Punishment 8th Amendment, 14, 6, Amendment Right to Fair Trial, 4 Right in his own self & home for malicious, Malice by all Defendants 4, 5, 6, 14, 10, 12, Federal Constitutional Rights Along with his Civil Rights because he WAS a his panic convicted individual profiled as one who will cop-out - (plea guilty & thought not guilty)

Note: plaintiff was held for approximately 10 months From (October 10, 2005 to 2006) when he pleaded Guilty & thought not guilty at Manhattan Supreme Ct 1st ss

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'is receive it would further prove
that their was pass it to someone
meaning ADA. whom has NO knowledge
of the Omission of evidence
for they could try the case - we
have knowledge that we withheld
evidence, he may cop-out before
we go to trial he has in
pass - statement upon information
and belief of first team that with
held/omitted evidence of Brady/Rosario material
Therefore, The 2nd District Attorney
whom handled this case, knew
inadvertently that the only
way to try the indictment 1562/11
is to withhold evidence of Brady/Rosario
material until Trial - had this material

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The District Court Erred
 in not adhering to the Plaintiff
 Complaint in his original charge
 of conspiracy against the
 A.D.A.'s and do not have absolute
 immunity or Qualified Immunity
 for their acts of knowledge
 that one of their allege (A.D.A.'s)
 Assistant District Attorney's with
 held evidence being Brady/Rosario
 material that would have swornly
 violated their oath of office to
 violate the plaintiff's Federal, United
 States and State Constitutions. Civil Rights

See Walker vs City of New York
 974 F.2d 293; 428 1983 also see Rehberg
U. PAULK 132 S.Ct 1497 : Margawiel Co 612 F.3d
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(3)

19th

held in an attempt to seek a plea of Guilty or hopes that plaintiff would plea Guilty, See Walker v. The City of New York 974 F2d 293

2. The prosecution duty is to uphold the Laws of this State and Oath Sworn to do their duty in a manner that was consistent with that oath not to falsely accuse an individual for he had prior convictions and it was likely for him to plea guilty rather than go to trial. See (Background Material (Anti)) also see copy of sworn similar oath of Prosecutors - See also copy of ABC exhibits attached hereto

1
The evidence of the Trial Ms
are indicative that there was
malice to attempt to try, Mr. Crespo
the plaintiff, without the evidence
haven't been relied upon to
obtain, the Warrant for Arrest
to give to the Judge to obtain
warrant nor was it evidence
had been given to the Grand
Jury to indict Mr. Crespo, but
it would have prove Mr. Crespo
Never Broke the alleged Window
So the people / Defendants a
relied on false maliciously
Brady/Rosario Material that
have Proved A Conspiracy

②

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All the District Attorney that first withheld Brady/Rosario Material and did violate the Plaintiff's Federal State and United States Constitutional Rights, Civil Rights and City and State Claims - of U.S.C.A. 1, 4, 5, 6, 8, 10 14 Amendments of United States Constitutional Amendments, State Constitutional Rights to be free from False Arrest, Malicious Prosecution Abuse of Process, Right to be free from Malicious Abuse of the Defendant to Use their office to secure a misleading the Plaintiff in believing that he had committed they knowingly knew was innocent by false omitted evidence

Exhibits

A. copy of minutes 1, 53c, b,
which prove that Judge knew plaintiff
was not the individual that broke
into the 99¢ store,

A1. The Court knew based on the
omitted evidence to Grand Jury
to seek warrant that there was
conspiracy and choose to suggest that
he had gone into the establishment
rather than to hear the plaintiff out
So he stated for him to shut up,
And spoke to his Legal Advisor,
See minutes of Trial,

A2. The Court that presided over
the case didn't want to dismiss the
charges nor did he allow plaintiff to speak.
This made the plaintiff hold back on
what he stated in Court, Plaintiff
Knew Jury at Trial heard this. - See Trial Min.

1. The omission of the Brady/Material should prove to this Court that there was a Conspiracy by the 2nd District Attorney's A.D.A., ADA Supervisors that it was an ongoing Conspiracy that should have let this Court look more intermediately at this crucial evidence that plaintiff has a truthful viable claim against the first A.D. Attorney Team as well as the 2nd District Attorney team which should have dismissed the Indictment from inception and the case in its totality. This Honorable Court erred in not looking into the claim of Conspiracy by both

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the District Attorney Supervisors
Team (1) And (2).

The Acts of the UNKNOWN
District Attorney; and District Attorney
Assistant's (Hereon D.A. + (A.D.A.))

Are that they violated the Duties
of their Sworn OATH to uphold
the Constitution. violating the state,
United States Constitution of the
American along with Federal Constitutional
Laws along with Civil Rights
of the plaintiff,

1. The Commanding Officers of
the District Attorneys, the District
Attorneys Office as a municipal
function are guilty of improperly Training
the (D.A. and A.D.A. involved in the indictment

1562/11 and/or Not Proper Supervizing them
2. The District Attorney's office

A. For Improperly Training their A.D.A.'s
And for Acting in Manner Contrary
To their Function and not properly
Screening thean employee's

B The District Attorney's office
is in violation of prolonging
the Stay in Jail of known innocent
man.

C. Falsifying evidence and/or omitting
evidence that would prove the
plaintiff innocent of charge against
him.

D for Falsifying evidence by Marshalling
evidence for convenience of case

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The D.A. and A.D.A's in the Case docket 1562/11 is undoubtedly a fact that all The District Attorney's and A.D.A's obviously knew that there had been evidence withheld, also that they all knew that the evidence that was used was suffice to have falsely presented to suit predicate of case, to Judge, Grand Jury and because of withholding of evidence District Attorney's involved in Indictment 1562/11 are all guilty of the Conspiracy to seek conviction under false pretenses and the need for proper training is essential for A.D.A.

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The District Attorney Supervisor
And or District Attorney and/or the
District Attorney Assistant's all
(Hereon D.A., S.; / D.A. / A.D.A. Respectfully)
Involved 1562/11 indictment when
They all had a consensus meeting
Knew that there wasn't enough
evidence to presume that there
was suffice evidence and/or Probable
Cause to Arrest the Defendant
Now Plaintiff in 16 CIV. 0708,
for the following reasons

A. The Records kept by the
Medical Examiner of the State of N.Y.
See exhibit A, B, C, D

B. The Minutes of the Trial
where it states and Judge States
See exhibit 291-295 and 98-99 where
it states that XY was on the
DNA on Crowbar when tested
which meant it was ~~FEMALE~~ NOT MALE

Although unable whom it was
it was suffice to determine
it was not a male and obviously
not the plaintiff.

Although Plaintiff was never
made aware of this at no
time prior to trial, however, all
the D.A's aforementioned made
the policy maker's liable and
their supervisors and as policy
makers they are for making
a wrong choice that is likely
to happen on occasion and
more than once liable for
their action - See Walker v.
City of New York 974 F2d 293

which was a females DNA not
A male. therefore,

- A) The DNA wasn't the Plaintiffs
- B) the DNA allegedly bloody crowbar had been destroyed as evidence by the N.Y. City Police Department.
- C) There wasn't any evidence to prove the allegedly burglar, Mr. Crespo was ever in the area at any given time either before or after the commission of the crime.

For all the forementioned this
Court should reverse the decision
made 9/18 and restate the case
and/or make a decision of law that
there is suffice evidence that there
would be favorable to have a favorable
decision to the plaintiff as a matter
of law. See

Complaint Against The Defendants²⁹
Are As Follows

That the District Attorneys
in this matter directly and deliberately
violate the plaintiff's rights based
upon that they falsely choose to
indict and omitted evidence to present
to Judge and to the grand jury all false,
to secure that they could obtain a
conviction.

The District Attorney and assistant
district Attorneys (A.D.s) (D.A.)
(hereon (A.D.A)) use
their office in a malicious way
contrary to their custom and training
to secure that they could obtain a con-
viction with hopes that the plaintiff
would plea guilty and not go to
Trial.

The District Attorney held this evidence in hopes that the plaintiff knowing been incarcerated at other times, for allegedly committing other crimes of which he plead guilty for the A.D.A.'s believe that he would plea guilty of this crime although they knew he was not guilty because he would have received an exorbitant amount of time, and in the past he had plead guilty of crimes that were not proven against him although the A.D.A. knew that since the plaintiff was not guilty in the past they believed by holding him in Jail that he would eventually get tired and take a plea of guilty for less amount of time.

as he had in the past.

The District Attorney with held crucial evidence that was Brady/Rosario Material. Had this evidence been given there would be no need for him to make this claim against Defendants, nor would there be any need for his arrest or any of the Federal, State and United States Constitutional Rights to be infringe upon as well as his Civil Rights.

This Amended complaint states that the D.A. and A.D.A. whom worked on the conjuring up of evidence to secure an arrest, falsely, and the false evidence made up by a consensus decision

of the D.A and A.D.A.s of which
is a conspiracy of withholding
the evidence made the A.D.A's
decision a sworn conspiracy to
make it seem as the plaintiff Crespo
was guilty of the crime. This
chosen action was made the District
Attorney's office liable because of
the direction of their duty. It
also made the District Attorney's
office liable, because they are liable
for making a choice of something
which they may encounter during their
training to become Assistant District
Attorney's of District Attorney's
The District Attorney whom choose

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To omit the evidence, knew that his actions were wrong but believed that by making this possible, that one of his subordinates would obtain a conviction, and by doing same is screening a case to obtain a conviction of which he believed he/she is doing the function of their job.

Although the plaintiff is unaware as to whom was the D.A. or A.D.A., he claims it was one of them a District Attorney and/or Assistant that omitted said Rosario/BARRY material that would make it possible for the charges against Mr. Crespo, the plaintiff stick.

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The A.D.A. was given a Duty by District Attorney after Altering the the A.D.A., and choose this to be a deloratory tactic to hold the plaintiff in Jail after the Arraignment.

First The District Attorney's and Assistances' and all other A.D.A.'s that were involved in the consensus decision making meeting - they told Whitt what to say during Arraignment, Bennett Codrington how to address the Grand Jury and they gave the case to Lauree Perry to Try.

The First Act was to Secure that they could obtain a warrant that seemed to be truthfull enough to believe to

obtain Warrant from A Judge
As Arrest Warrant if this in fact
was a real Judge, (for the
plaintiff look on his own if there
was a Judge by the Name of Williams
after he received the Discovery from
his Attorney or Acting Attorney Katz,
on October 23, 2011 which was the
first time after arraignment he had seen
this Attorney - This is reasoning for firing him)

The Plaintiff believed he never had
seen a warrant without the Seal coming
out when it was a true warrant from his
study of cases. So the Judge who
allegedly issued warrant is questionable.
As to the fact whether or not a Truthful
signature of Judge?

2. The Instructing the Commanding Officer whom gave the Warrant to Police officers that the instructions given them on how to go about going to execute the Warrant. This made the Commanding Officer and Investigating Officer Garcia, whom became sworn witnesses of his instructions to Arrest Crespo, the plaintiff, along with his subordinate officer all liable for their respective action and inactions in the performance of their duties, and for false arresting by using tactics contrary to their respective training of arresting one with warrant, for they lied about what he was being arrested, never showed warrant.

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The Officers were wrong
and violated the manner in which they
arrested the plaintiff, ① they never
stated they were officers or that they
had a warrant to arrest the plaintiff.

3. They use lies to obtain an arrest
when there wasn't any need to
lie. 4. They mislead the plaintiff
where the plaintiff believed he was
coming home that evening. The officers
knew that the plaintiff was not guilty
of the charge, the leading Det. Garcia
especially for he was the investigating officer
since the inception of the case 4/17, 18/2007
for he was the investigating officer and
one that took the allegedly DNA from plaintiff.

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The District Attorney's Office upon securing their Indictment, having a False Arrest Allegedly Arrest Warrant had the plaintiff arrested and gave the assignment to Bernadette LUMAS Carrington She Lied to the jury upon instructing them as to the evidence also marshalling the questions to all the witnesses to obtain a 'Allegedly True Document Against the Plaintiff, knowing that this manner she would obtaining the given requested relief of an Indictment against the plaintiff.

The Instructions given Whitt, upon his arraignment to the Court was rehearsed and contrary to the manner

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in which he was trained, of which infuriated the mind of an already pro District Attorney Judge, Judge Reece A. White part 62.

The statement upon the Plaintiff entering the Courtroom on August 24th 2011 where the A.D.A Charles Whitt. Stated in a Loud voice, the following Mr. CRESPO has been indicted by the Grand Jury on the 15 of August for Breaking into a 99¢ Store with a "CROWBAR" (BLOODY CROWBAR) with his DNA.

The Bail of 8,000 was Place on the Plaintiff whom knew

he could never raise that amount of funds nor anyone in his family.

So then the case had been adjourned and the D.A. now being Lauren Perry whom conjured

up, to have D.U.A. retaken

so that the case would be

prolong along with fact that

evidence of the original people

that took evidence would prove

the plaintiff's innocence, this

was purpose of the long delay

two, fold to hide the testimony that

would have proved it wasn't plaintiff

and that the A.D.A. knew this all

along - also to prolong stay incarcerated

to hopefully have plaintiff plea guilty,

The District Attorney, Vance,
and Supervising District Attorney
and perhaps even Assistant D.A.'s
know to a moral certainty that
the District Attorney's in some form
will be left with decisions that
may be harmful to them either directly
or indirectly in adhering to allow or
omit evidence and it's a choice
taken often knowing as to what
may happen, if discovered and thus,
by making the wrong choice they
have violated the oath of the Office
that they have, the Federal, United States,
and State Constitutional Rights of a
Citizen and Civil Rights along with

the Laws of the State of New York especially abuse the process of Making a False Arrest conspiring to secure a already known convicted individual, now citizen to Violate his rudimentary Right to unlawful arrest abusing their office and becoming an Obstruction of Justice by filling an unlawfully seek arrest, warrant for arrest seeking to falsify evidence to obtain the warrant, the false testimony of the presenting A.D.A. Know accomplice of the conspiracy to falsify testimony to Violate their office, State, United States and Federal Constitutional Laws to the Grand Jury whom are Trusting

41

that any A.D.A. holding their office will state a truthful claim as to what they present not rogue of the sort had at this instant case that should be dismissed from the office @ hold in the District Attorney's office proving that this may have happen again and again and sending wrong messages to up coming A.D.A. and for having the gal to act in a manner to stand for Justice and most of all for depriving a person to secure a place in society - even if he/she has been convicted in past.

42

The District attorney should be
Taken the Salary for @ month that
they sort to prosecute the plaintiff
and Accountable for their actions
and the State and City should
be held liable @ of the officer's
and assistants that worked on Indictment
1562/11 for they knew that the defendant
now plaintiff was falsely prosecuted
for their acts and inaction for not
reporting those whom they knew that
these actions were be done
to the ex convicted and now citizen
plaintiff Herman Crespo and Secure
that they never hold a public office
Again and serve as a example to

43

Any other Assistant District Attorney
or a worker therein to these
views which are the very people
that are suppose to uphold the
spirit of the District Attorney's
office

The Above mentioned makes the
all known A.D.A., of whom worked
on the Indictment 1562/11 are all
liable for their acts or non-acts
as subordinate A.D.As and Bicy makes
of the Municipality also the Supervisors
and District Attorney's Cyrass Vance
whom should know as to the work
either improperly Training or non
Supervision of the Supervising
A.D.A. or Supervising District Attorney

The Supervizing Officer or officer in charge that gave the Warrant or allege Warrant and/or instructions to obtain Mr. Crespo for arrest must have gave Det. Garcia and other cohorted officer's who assisted in the Allegedly arrest Warrant were all guilty of falsely arresting plaintiff under false information and without probable cause exclusively Det. Garcia whom was also the investigative officer on the burglary when he obtain the hit by the evidence that he had knowledge of for he was the Det. in charge of CASE since inception back 2007 Note: He was in charge of All Burglaries in chealsea Area. (22nd St) -

45

d)

Not Alleged a pattern of practice in connection with said Monell claim;

3. Plaintiff Claims against Detectives for false arrest and imprisonment are time

barred. (4) The Malicious Prosecution

Claims and denial of Fair Trial Claims

against Rivera fails, because Grand Jury

Testimony may not be used against him;

5) Low of Plaintiffs Remaining Claims on

Cause of Action of State Claims, For all

Federal Claims have or will be dismissed;

This Court will not exercise Supplemental

Jurisdiction over Plaintiffs State Law Claims,

because This Court finds all Federal

Claims had been reserved For Defendants.

B

46

Abuse of Process, false arrest,
false Imprisonment, denial to fair
Trial, Cruel and unusual Punishment
and equal Protection of Civil Rights

(2) State Law for false arrest, false
imprisonment, malicious prosecution, false
imprisonment and Abuse of process, equal
Protection of Law of New York State Constitution
and defamation; also a Morell Claim against
District Attorney.

The Plaintiff seeks for
this Court to reverse their Decision on
the Order entered 9-19-18 stating
that District Court found Plaintiff Claims
against District Attorney's are barred by
the Eleventh Amendment and Absolute
immunity. 2) Plaintiff's Claims do not
allege a Morell Claim because he had

47

The District Attorney's Office erred in not dismissing the case and is evenly enough in making an attempt in trying to make an issue of the case for they knew that they didn't have enough ^{case out} " " of an obviously none provable fact that there was insuffice evidence to even prove that Mr. Crespo even committed the lesser part of the case which would have been distraying property in breaking the Window. See Exhibit where it states that the allege DNA on the supposedly have been the instrument that was used to break into the burglary site : where it states that DNA belong to K

This is An Amended Claim
against The Defendants already
stated in the Original Complaint
And the Add Defendants of which
are set forth herein on This 2nd
AMENDED Complaint granted by
the Court Order dated 9/19/18

This Second Amended Complaint
ASSERTS claims against the
Defendants under 42 § 1983, ~~Civ~~ Civil
Rights Violation of Federal, State
and United States Constitution along
with the City of New York and Laws
therein including and not limited
to the equal Protection of Law.
They are for ⁽¹⁾Malicious Prosecution,

48

Also upon information and belief all evidence gathered up and received by him from Squad that made report available to him upon being investigating Det. And CASE being initially his - so he had direct and deliberate knowledge of First DNA. Reports, before turning it over to District Attorney's office, The finalization of DNA was first sent to him with no hit on it.

49

The District Attorney's Office
and/or D.A.S., A.D.A's that worked
on this case of 1562/11 are all
Liable for being Knowledgeable of
Conspiracy to Violate the Rights
of the plaintiff, Federal, State
United States respective Constitutional
Rights as well as Civil Rights to
be profiled as recidivus arrest records
and the use of District Attorney Office
for withholding Brady Rosario/Material
in hopes of getting a plea of Guilty
Vim Cop out by plaintiff or defendant
at time for he had plead guilty
in the past.

51

The District Court for Southern District erred in not going to the Actions or in Actions of District Attorney's office and all the Defendant District Attorney's - See Minutes 291-295 Trial Minutes - where Judge stated it was not Plaintiff's DNA on crowbar. it (DNA) belong to female not male thus Plaintiff never used allege bloody crowbar that was never bloody crow - but had suffice evidence DNA to prove it was a female not Plaintiff. See Exhibits 1. A, B, C, D, respectfully

52

The Prosecution Supervision and Training Staff Have Never Train the District Attorneys on how to conform in the manner in which to properly dismiss a claim
10 Nor should any District Attorney should be allowed to violate the spirit of oath of office

(2) The Supervisors of District Attorney whom conform to these tactics should be dismissed from their duties as Prosecutors or Assistant A.D.A. Assistant District Attorney
A District Attorney should not condone these actions by their subordinates and be subject to dismiss

SWORN Duty of
Prosecution
D.A. A etc.
Exhibit (1)
(i)

Cornell Law School

Legal Information Institute [LII]
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U.S. Code › Title 5 › Part III › Subpart B › Chapter 33 › Subchapter II › § 3331

5 U.S. Code § 3331 - Oath of office

An individual, except the President, elected or appointed to an office of honor or profit in the civil service or uniformed services, shall take the following oath: "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God." This section does not affect other oaths required by law.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 424.)

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900

10 —

800 —

10 —

600

[1]

The plaintiff believes that during the reception of the response of the District Court, the plaintiff's belief became true and he became knowledgeable of the fact that there had been more than one conspiracy or Indictment therefore the contentions that the charge of being untimely given the plaintiff should be reversed for he became knowledgeable on the Judges Decision that this was the time he became knowledgeable therefore all charge against the plaintiff should be reinstated and this action is premature discovery on this matter should be allowed.

in furtherance of Claim; The officers
and/or Detectives should be reinstated
to their original claim against the
officers/Detectives The Det McNair should be
served also, along with Commanding Officer ^{10 Precinct}
The Kiew Defendants A.D.A. ^{is present}
office - A.D.A. ADAS, A.D.A.s
should be served with Complaint etc,
Also the claim against the Cyruss
A Vance should be reinstated for
failure to supervise, and Train
District Attorney Personell etc,

The District Attorney Office and all Defendants denied the plaintiff his rudimentary Right, Federal States, United States, 1, 4, 5 6 8, 11, 12, 14 etc.

Civil Rights Human Rights and crystalline fact he was used as one who had been arrested before.

See United States, Walker v. The City of New York, 974 F.2d 293, 42 § 1983

Pembaur v Cincinnati, 475 U.S. 469

City of Canton v. Harris, 489 U.S. 378.

Riccit v New York City T.A. 941

72 Fed. 119, Herman Cestero v. Commanding Officer NYC Police Department,

Margawiello, 612 F.3d. 149 at 161, Murphy v Lyn. 118 F.3d. 938, 944 (2 Cir. 1997)

Wherefore to the plaintiff Humble
prays that this Court enter an
order restore all the claims
against all the defendants be restored
until further discovery and that
discovery be set forth immediately
as to all defendants in Indictment
1562/11 prior to indictment - that
plaintiff may know all defendants
the discovery as to all moving
papers et-al the Ordering that
known defendants may be served
and that Det. McNair from
Original Complaint may be served and
all other defendants may be served
and for whatever this Honorable
Court deem just and proper

The Plaintiff seeks that this court reevaluate the facts surrounding the claims against the District Attorney's office using some of the exhibits shown here and others that are in the Minutes of Trial to make an informed decision, Reverse its decision for the plaintiff just found out the acts of Police Department so reinstatement of his claim against him is in order that if the court perceives that the plaintiff has proven that there is no way that the District Attorney's office could deny this that an Order be entered in his favor as matter of LAW.

The Plaintiff HERMAN CRESPO does
swear that all statements aforesaid
in this Amended Complaint are true
and correct accept for all statements
made upon information and belief
and as to those are believed to
be true.

cc: Filed

Submit to Etc.

Herman Crespo
HERMAN CRESPO
760 East 188th
Bronx, N.Y.
10460

LOOK

— This Court didn't review
this evidence that all
conspiring A. D. A. Office
knew they hadn't enough
evidence to support probable
cause to indict Mr. Crespo

This evidence alone should
suffice that there was conspiracy
and case should have been
dismissed!

Exhibit 1

(A.B.C.D) enclosed

— Trial Proceedings
where Judge admits
plaintiff DNA was not on
alleged crowbar used to
break into 99 & stores

Female's DNA found
on crowbar not plaintiff's,

Exhibit 1

Trial Minutes Please Read
291 to 295

PROCEEDINGS

1 please, let me finish.

2 DEFENDANT CRESPO: Sure.

3 THE COURT: I don't see how giving an adverse
4 inference, in other words, sanction the People in any way
5 prevents this type of conduct from occurring again in the
6 future or how it serves as a deterrent because there was
7 nothing that was done wrong. It's wasn't like the police or
8 the District Attorney's Office were even responsible -- in
9 any way destroyed evidence that otherwise would have been
10 saved. So I have to think about this.

11 I understand that your client -- now, he never made
12 a specific demand for it, right?

13 MR. DONLON: I wasn't involved in motion practice.
14 I believe that all of those things were asked for during
15 that portion. I'm not too sure that Mr. Weinstein filed
16 motions and demand of discovery.

17 THE COURT: It was the standard, usual demand for
18 discovery.

19 But he never requested to see the crowbar, and he
20 never knew it was destroyed until he came in here last week.
21 So we're talking mid-January, all the time that the case was
22 pending without knowing that the crowbar had been destroyed.
23 He never made a demand to see in it, to have it tested. I'm
24 not ruling on it right now, but I can tell you that I'm not
25 sure that I am going to stick with my original ruling and

PROCEEDINGS

1 require that the Court give an adverse inference.

2 MR. DONLON: I would respectfully disagree with the
3 Court. I believe that the People do have an obligation to
4 preserve evidence. I believe that's clear, and they are
5 aware of the Police Department's policy.

6 I was given a written directive from the district
7 attorney which explains the policy, and I assume the
8 investigative detective also is aware of the Police
9 Department's policy and would make it a practice to,
10 particularly when they have open cases with a pattern, that
11 they would make every effort to preserve that evidence.

12 Again, in the event -- certainly I think we all
13 could agree that the inference that I think is drawn from
14 the crowbar laying in the broken window is that the crowbar
15 was used to break the window. This was the implement that
16 was used to break the window. Certainly if Mr. Crespo's DNA
17 was on that crowbar, it would further the inference that he
18 was the person who broke the window.

19 THE COURT: Right.

20 MR. DONLON: The fact that there's unknown DNA, I
21 guess, creates the possibility that it was somebody other
22 than Mr. Crespo.

23 THE COURT: Right. We have that.

24 MR. DONLON: So I think if it was someone else's
25 DNA -- and certainly I would want to argue, Look, the People

PROCEEDINGS

1 want you to believe that the crowbar was used to break the
2 window. Now, we have X's DNA on it. So someone else broke
3 the window, and Mr. Crespo went into the store. I think it
4 would create some argument to be made, Judge.

5 THE COURT: Even if we had the crowbar, it doesn't
6 change the argument because that crowbar was never
7 re-tested.

8 MR. DONLON: Right.

9 THE COURT: So I don't really see where you're
10 going with the argument. The crowbar was never re-tested by
11 anyone. So the evidence that was recovered from this
12 crowbar is what it is. It is today in 2013. What it was in
13 2007 nothing has changed. And not having the physical
14 crowbar here does not change your ability to make whatever
15 argument you want to make.

16 I will say this, I do disagree with your argument
17 that the police should preserve evidence in blanket form.
18 This is a huge city with huge amounts of evidence gathered
19 every single day, many crimes that go unsolved. If the
20 police and the Prosecutor's Office were to be required to
21 preserve every bit of evidence ever vouchered whether it be
22 investigatory or arrest evidence, we would literally have
23 countless numbers of warehouses of evidence. It is an
24 impractical approach. I think to keep it for a year seems
25 reasonable and -- you know, I'm not in the Legislature. I'm

PROCEEDINGS

1 not on the City Council. So I have no say on this. But as
2 a Judge, it seems reasonable. You save it for a year. If a
3 case is not solved after a year, it gets destroyed. And
4 that seems that's all that could be done to make sure it is
5 always enough room for ongoing, active investigations. I
6 don't have a problem with something being destroyed after a
7 year.

8 Moving along to the memo book, I am going to give
9 an adverse inference as to Officer Serrano's memo book. And
10 I will give an adverse inference as to the other officer's
11 memo book. If between now and tomorrow morning we don't get
12 it and if we do get it between now and tomorrow morning, I
13 would ask you to have that detective available if Mr. Crespo
14 chooses to put him on the stand to conduct further
15 cross-examination.

16 MS. PERRY: Yes, Judge.

17 THE COURT: If we don't get it, it's going to be an
18 adverse inference as to both memo books.

19 MR. DONLON: The police officer, Officer Serrano's
20 memo book, your Honor, the prosecutor had given me an
21 example. I don't know if the Court has a copy of it, an
22 example of an adverse inference for that memo book. And I
23 believe given that Police Officer Serrano's testimony which
24 I would characterize is, at the very least, disingenuous and
25 misleading to the jury and to the Court, and on the other

Leading Case Buckley v. Fitzsimmons

509 US 259, 263 Supreme Ct Indictment #

P. 10.
Absolute
qualified
immunity
③ Imbler v. Pachtman (1973)
424 US 409, 430 - 31 (1976)

1562/211

Crim. Ct. DKT. #

2011 NY 003442

④ Hill vs City of New York
45 F.3d 655, 660

① Pinard v City Suffolk [10 Precinct
52 F.3d 1139, 1147. (2nd Cir 1995)]

230 W 20th Street
N.Y. NY 10011

Burris v. Reed 500 U.S. 478
486 (1991)

Lauren Perry 1 Hogan Place
N.Y. NY 10013

Deronette v City of New York
5 Civ. 5275 (ST) - Citing
Deronette v. City of New York

Before Discovery Mitchell 472 U.S. 511

526 (1985) U.S. v. Colbert 87 4789
87 Civ. 4789 (1991 WL 183376 at *4 SDNY Sep 11 1991)

SEE P. 11.

Decided 12 8, 2016

See Cases under

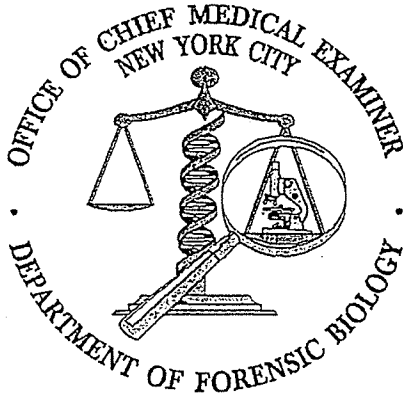
unsealing Case 160.50

Martin El v Doe NO. 15 Civ. 6581
2016 US Dist. LEX 10259 (EDNY
269 F.R.D. 267, 274 (SDNY 2010) (1-28-16)

Crosby v. City N.Y. 269 F.R.D. 138, 141 (SDNY 2014)
Schenberg v Bologn 298 F.R.D. 138, 141 (SDNY 2014)
Hans v City of N.Y. NO 03-cv 4915, 2006 US Dist
LEXIS 85225 SDNY 11/17/06

Office of Chief Medical
Examiner

Exhibit A



OFFICE OF CHIEF MEDICAL EXAMINER
Charles S. Hirsch, M.D., *Chief Medical Examiner*

DEPARTMENT OF FORENSIC BIOLOGY

Mechthild Prinz, Ph.D., *Director*
Howard J. Baum, Ph.D., *Deputy Director*
421 East 26th Street, New York, NY 10016
Tel: 212.323.1200 · Fax: 212.323.1590 · E-mail: DNALab@ocme.nyc.gov

September 9, 2007

LABORATORY REPORT

COMPLAINANT: Mamadou Diakhate

LAB NO: FB07-01010

COMPLAINT NO: 2007-010-01955

SUMMARY OF RESULTS:

PCR DNA typing performed on the following samples indicates the presence of the same male DNA profile that is suitable for inclusion in DNA databases:

- swab "E2" from "inside on wall by point of entry near broken glass"
- swab "E3" from "piece of broken glass (on inside of)"

This combination of DNA alleles would, at a minimum, be expected to be found in approximately:¹

1 in greater than 1 trillion people

DNA extraction was performed on the following sample, but an insufficient amount of DNA was present for the DNA testing listed in this report:

- swab "E1" from "crow/pry bar"

Further analysis could be done upon submission of a blood or saliva sample from a suspect and/or victim/ elimination sample. Further analysis will require approximately 30 days.

The DNA results in this case do not match any previous PCR (STR) DNA cases to date.

The DNA results in this case will be entered into the OCME local DNA databank. The DNA results will be entered into the National Combined DNA Index System (CODIS).

1. OCME STR database, National Research Council (1996) The Evaluation of Forensic DNA Evidence, Natl. Acad. Press, Washington DC.

Exhibit B

See Trial Minutes
DNA Expert Testimony
p. 95 - p. 98

X means Female
XY means Male

X DNA Found on Crowbar
use by A.D.A as instrument
used to Break in Allego 99¢
Store.

PEOPLE-DIRECT-MS. RAZZANO

1 MS. PERRY: At this time, the People offer
2 People's 13 into evidence.

3 THE COURT: Any objections?

4 DEFENDANT CRESPO: No objections.

5 THE COURT: People's 13 is accepted into evidence.
6 (People's Exhibit 13 marked and moved into evidence.)

7 MS. PERRY: Permission to publish it to the jury.

8 THE COURT: Sure.

9 Q Ms. Razzano, looking at People's Exhibit 13, can you
10 describe what we're looking at here.

11 MS. RAZZANO: May I approach?

12 THE COURT: Sure.

13 MS. RAZZANO: Thank you.

14 A So what you're going to see here is three lines. The
15 first line would indicate the DNA profile that we obtained from
16 Herman Crespo.

17 The second and third lines will indicate the DNA profile
18 that we obtained from two swabs tested in the case.

19 Along the top you will find 15 locations that we tested
20 in the laboratory along with one location at the end. It says,
21 AMEL. This is a sex determining locus. So if you see a XY, it
22 indicates the DNA profile came from a male. If you just see X,
23 it indicates it came from a female. These are the locations that
24 we know to be different from one another thus making us unique.

25 What you'll see down here are two numbers. These are

SARAH MAXEY, SCR

DEFENSE-CROSS-MS. RAZZANO

1 You can answer it.

2 A DNA is deposited when a person comes into contact with
3 an item.

4 Q But I mean as to span of time. Can you state with
5 particularity how long that would have been at that given area?

6 A No.

7 Q Okay.

8 Therefore, you cannot -- by not being able to do that,
9 you can't say how long it was there, right?

10 A That is correct.

11 Q Can you tell from what part of the body it came from?

12 A No, it's skin cells that are deposited from some part of
13 the body.

14 Q So you don't know whether that was blood or what it was
15 in essence?

LOOK 16 A The two swabs that were tested from the glass had a
17 reddish/brown appearance. At the time of testing, we did not
18 test for blood on the sample. So the swabs were reddish/brown,
19 but they were not tested for blood.

20 Q Is it possible that, let's say, when given test items
21 such as a piece of glass, is it possible for there to be two DNAs
22 at one given time on a piece of glass?

23 A Based on the results, DNA was only found from one
24 individual.

25 Q Let me rephrase that so you can understand.

Police DNA Report
given by A.D.A. - from
Police Examiner

Exhibit C



REQUEST FOR
LABORATORY EXAMINATION
PD 521-161 (Rev. 9-89)-95

POLICE DEPARTMENT
CITY OF NEW YORK

BIOTRACKS #0700625

(See instructions on last copy)

INVESTIGATING/ARRESTING OFFICER (Print) Rank Name (Surname, First, M.I.)	TAX REG. No.	COMMAND	COMP./CASE No.	PCT.	PROP. CLK. INV. No.
PO Serrano Raymond L	[REDACTED]	010	1955/	010	N656005
OFFENSES	COMPLAINANT (Name)				
Burglary	Diakhate Mamadou				
DATE/TIME OF OCCURRENCE	ADDRESS OF OCCURRENCE		TYPE OF PREMISES		
4-18-07	244 W 23rd St, NY, NY				
DEFENDANT/SUSPECT					
Name	Arrest No.	Pct.	NYSID No.	Sex	Color
				Age	Height
					Weight

DETAILS OF OFFENSE (Include Relationship of Evidence to Case. When necessary, include physical description of complainant.)

CU states upon opening store he discovered his storefront window was broken and items from the immediate area of window were removed. Crow bar was discovered on scene as well as blood.

EVIDENCE SUBMITTED

Item No.	QTY	Description	Ident. Marks	Where Obtained
E1	01	Swab of Poss DNA		From Crow/Pry Bar
E2	01	Swab of Poss Blood		Inside on wall by point of entry near broken glass.
E3	01	Swab of Poss Blood		From piece of broken glass (on inside of)

TYPE EXAMINATION REQUESTED (Purpose of Request)

Bio Tracks

FB07-01010

HAS OTHER EVIDENCE IN THIS CASE BEEN PREVIOUSLY SUBMITTED? ☐ Yes ☒ No

Check section and give case no., if known.

☐ Lab Case No. ☐ Crime Scene No. ☐ Ballistics Unit No. ☐ Bomb Squad No.

IS THERE A PREVIOUS CASE WHERE EVIDENCE CAN BE COMPARED WITH THIS CASE?

☐ Yes ☒ No. If Yes, Complaint No. Pct. Lab. Number(s)

REMARKS: (Any Information That May Aid in Analysis)

In Regards to ECT Run# 07-R-049

Finder of Property PO Ribustello

Fax # [REDACTED]

Evidence Given to
PO Miyamoto Tax #927214
PO Serrano Tax #929158 >102

MEMBER SUBMITTING EVIDENCE

Rank Name Tax Reg. No. Cmd.
PO Ribustello A [REDACTED] M5ECT

LABORATORY USE ONLY

☐ CRIM ☐ ARSON ☒ SER

☐ DOC ☐ BAL ☐ IDTU

Laboratory No. 07T1728

Date 5-1-07

Received by: PO [REDACTED]

EU07-M1825

5/30/07

a KAT 627

WHITE AND PINK COPIES -- POLICE LABORATORY

BLUE COPY -- PRECINCT FILE COPY